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8 FRESNO and POLICE CHIEF PACO
BALDERRAMA

10 **UNITED STATES DISTRICT COURT**

11 **EASTERN DISTRICT OF CALIFORNIA, FRESNO DIVISION**

12 MARTHA ZEPEDA OLIVARES,
13 individually and on behalf of the
14 ESTATE OF MAXIMILIANO SOSA,
JR.; MAXIMILIANO SOSA, SR.,

15 Plaintiffs,

16 v.

17 CITY OF FRESNO, UNKNOWN
18 LAW ENFORCEMENT OFFICERS,
POLICE CHIEF PACO
BALDERRAMA and DOES 1-30,

19 Defendants.

20 _____
21 MARIA SOSA, L.S. by and through
22 guardian ad litem MARIA SOSA, M.S.
23 by and through guardian ad litem
JENNIFER LOPEZ, individually and as
successors-in-interest to Maximiliano
Sosa,

24 Plaintiffs,

25 v.

26 CITY OF FRESNO and DOES 1-5,

27 Defendants.

Case No. 1:23-cv-01575-JLT-SAB
Dist. Court Judge Jennifer L. Thurston
Magistrate Judge Barbara A. McAuliffe

**ANSWER OF DEFENDANTS CITY
OF FRESNO, UNKNOWN LAW
ENFORCEMENT OFFICERS, AND
POLICE CHIEF PACO
BALDERRAMA TO OLIVARES
PLAINTIFFS' SECOND AMENDED
COMPLAINT FOR DAMAGES**

SAC Filed: 02/24/2025
Trial Date: Not Yet Set

Defendants CITY OF FRESNO, UNKNOWN LAW ENFORCEMENT OFFICERS, and POLICE CHIEF PACO BALDERRAMA ("Defendants") hereby answer Plaintiffs' Second Amended Complaint for Damages on file herein (Doc. 51, hereinafter referred to as the "SAC") and Defendants hereby admit, deny, and allege as follows:

1. Answering Paragraph 1 of the SAC: Answering Defendants admit that jurisdiction is vested in this Court under 28 U.S.C. § 1331 and 28 U.S.C. § 1343(a)(3)-(4). Answering further, Defendants admit that venue is proper in the Eastern District of California – Fresno Division under 28 U.S.C. § 1391(b).

2. Answering Paragraph 2 of the SAC: Answering Defendants admit that plaintiffs submitted government tort claims to the City that were rejected .

3. Answering Paragraph 3 of the SAC: Answering Defendants do not have sufficient knowledge, or information or belief, to enable Defendants to answer the allegations contained within this paragraph, as stated, and on those grounds deny generally and specifically each and every allegation contained therein – and Defendants deny all liability and/or wrongdoing.

4. Answering Paragraph 4 of the SAC: Answering Defendants do not have sufficient knowledge, or information or belief, to enable Defendants to answer the allegations contained within this paragraph, as stated, and on those grounds deny generally and specifically each and every allegation contained therein – and Defendants deny all liability and/or wrongdoing.

5. Answering Paragraph 5 of the SAC: Answering Defendants do not have sufficient knowledge, or information or belief, to enable Defendants to answer the allegations contained within this paragraph, as stated, and on those grounds deny generally and specifically each and every allegation contained therein – and Defendants deny all liability and/or wrongdoing.

6. Answering Paragraph 6 of the SAC: Answering Defendants do not have sufficient knowledge, or information or belief, to enable Defendants to answer the

1 allegations contained within this paragraph, as stated, and on those grounds deny
2 generally and specifically each and every allegation contained therein – and
3 Defendants deny all liability and/or wrongdoing.

4 7. Answering Paragraph 7 of the SAC: Answering Defendants admit that
5 the City of Fresno was at all times mentioned in the Complaint a municipal
6 corporation duly authorized to operate under the laws of the state of California, and
7 operated the Fresno Police Department under its supervision. Defendants deny all
8 liability and/or wrongdoing.

9 8. Answering Paragraph 8 of the SAC: Answering Defendants admit that
10 Defendant Chief of Police Paco Balderrama was at all material times employed as the
11 Chief of Police of the Fresno Police Department and was acting within the course and
12 scope of that employment. As to the remaining allegations contained in this
13 paragraph, answering Defendants do not have sufficient knowledge, or information
14 or belief, to enable Defendants to answer the allegations, as stated, and on those
15 grounds deny generally and specifically each allegation contained therein – and
16 Defendants deny all liability and/or wrongdoing.

17 9. Answering Paragraph 9 of the SAC: Answering Defendants do not have
18 sufficient knowledge, or information or belief, to enable Defendants to answer the
19 allegations contained within this paragraph, as stated, and on those grounds deny
20 generally and specifically each and every allegation contained therein – and
21 Defendants deny all liability and/or wrongdoing.

22 10. Answering Paragraph 10 of the SAC: this paragraph does not contain
23 any factual allegations against answering Defendants, and on those grounds alone this
24 paragraph remains unanswered.

25 11. Answering Paragraph 11 of the SAC: Answering Defendants do not have
26 sufficient knowledge, or information or belief, to enable Defendants to answer the
27 allegations contained within this paragraph, as stated, and on those grounds deny
28 generally and specifically each and every allegation contained therein – and

Defendants deny all liability and/or wrongdoing.

12. Answering Paragraph 12 of the SAC: this paragraph does not contain any factual allegations against answering Defendants, and on those grounds alone this paragraph remains unanswered.

13. Answering Paragraph 13 of the SAC: this paragraph does not contain any factual allegations against answering Defendants, and on those grounds alone this paragraph remains unanswered.

14. Answering Paragraph 14 of the SAC: this paragraph does not contain any factual allegations against answering Defendants, and on those grounds alone this paragraph remains unanswered.

15. Answering Paragraph 15 of the SAC: Answering Defendants do not have sufficient knowledge, or information or belief, to enable Defendants to answer the allegations contained within this paragraph, as stated, and on those grounds deny generally and specifically each and every allegation contained therein – and Defendants deny all liability and/or wrongdoing.

16. Answering Paragraph 16 of the SAC: the allegations are vague and on those grounds answering Defendants generally deny the allegations contained therein, – and Defendants deny all liability and/or wrongdoing.

17. Answering Paragraph 17 of the SAC: Answering Defendants do not have sufficient knowledge, or information or belief, to enable Defendants to answer the allegations contained within this paragraph, as stated, and on those grounds deny generally and specifically each and every allegation contained therein – and Defendants deny all liability and/or wrongdoing.

18. Answering Paragraph 18 of the SAC: Answering Defendants do not have sufficient knowledge, or information or belief, to enable Defendants to answer the allegations contained within this paragraph, as stated, and on those grounds deny generally and specifically each and every allegation contained therein – and Defendants deny all liability and/or wrongdoing.

1 19. Answering Paragraph 19 of the SAC: Answering Defendants do not have
2 sufficient knowledge, or information or belief, to enable Defendants to answer the
3 allegations contained within this paragraph, as stated, and on those grounds deny
4 generally and specifically each and every allegation contained therein – and
5 Defendants deny all liability and/or wrongdoing.

6 20. Answering Paragraph 20 of the SAC: Answering Defendants do not have
7 sufficient knowledge, or information or belief, to enable Defendants to answer the
8 allegations contained within this paragraph, as stated, and on those grounds deny
9 generally and specifically each and every allegation contained therein – and
10 Defendants deny all liability and/or wrongdoing.

11 21. Answering Paragraph 21 of the SAC: Answering Defendants do not have
12 sufficient knowledge, or information or belief, to enable Defendants to answer the
13 allegations contained within this paragraph, as stated, and on those grounds deny
14 generally and specifically each and every allegation contained therein – and
15 Defendants deny all liability and/or wrongdoing.

16 22. Answering Paragraph 22 of the SAC: Answering Defendants do not have
17 sufficient knowledge, or information or belief, to enable Defendants to answer the
18 allegations contained within this paragraph, as stated, and on those grounds deny
19 generally and specifically each and every allegation contained therein – and
20 Defendants deny all liability and/or wrongdoing.

21 23. Answering Paragraph 23 of the SAC: Answering Defendants do not have
22 sufficient knowledge, or information or belief, to enable Defendants to answer the
23 allegations contained within this paragraph, as stated, and on those grounds deny
24 generally and specifically each and every allegation contained therein – and
25 Defendants deny all liability and/or wrongdoing.

26 24. Answering Paragraph 24 of the SAC: Answering Defendants do not have
27 sufficient knowledge, or information or belief, to enable Defendants to answer the
28 allegations contained within this paragraph, as stated, and on those grounds deny

1 generally and specifically each and every allegation contained therein – and
2 Defendants deny all liability and/or wrongdoing.

3 25. Answering Paragraph 25 of the SAC: Answering Defendants do not have
4 sufficient knowledge, or information or belief, to enable Defendants to answer the
5 allegations contained within this paragraph, as stated, and on those grounds deny
6 generally and specifically each and every allegation contained therein – and
7 Defendants deny all liability and/or wrongdoing.

8 26. Answering Paragraph 26 of the SAC: Answering Defendants repeat,
9 reiterate, and re-allege all of the admissions and denials contained in the foregoing
10 Answer which are set forth to each and every allegation contained in paragraphs 1
11 through 25, inclusive, of the SAC.

12 27. Answering Paragraph 27 of the SAC: Answering Defendants do not have
13 sufficient knowledge, or information or belief, to enable Defendants to answer the
14 allegations contained within this paragraph, as stated, and on those grounds deny
15 generally and specifically each and every allegation contained therein – and
16 Defendants deny all liability and/or wrongdoing.

17 28. Answering Paragraph 28 of the SAC: Answering Defendants do not have
18 sufficient knowledge, or information or belief, to enable Defendants to answer the
19 allegations contained within this paragraph, as stated, and on those grounds deny
20 generally and specifically each and every allegation contained therein – and
21 Defendants deny all liability and/or wrongdoing.

22 29. Answering Paragraph 29 of the SAC: Answering Defendants do not have
23 sufficient knowledge, or information or belief, to enable Defendants to answer the
24 allegations contained within this paragraph, as stated, and on those grounds deny
25 generally and specifically each and every allegation contained therein – and
26 Defendants deny all liability and/or wrongdoing.

27 30. Answering Paragraph 30 of the SAC: Answering Defendants do not have
28 sufficient knowledge, or information or belief, to enable Defendants to answer the

1 allegations contained within this paragraph, as stated, and on those grounds deny
2 generally and specifically each and every allegation contained therein – and
3 Defendants deny all liability and/or wrongdoing.

4 31. Answering Paragraph 31 of the SAC: Answering Defendants do not have
5 sufficient knowledge, or information or belief, to enable Defendants to answer the
6 allegations contained within this paragraph, as stated, and on those grounds deny
7 generally and specifically each and every allegation contained therein – and
8 Defendants deny all liability and/or wrongdoing.

9 32. Answering Paragraph 32 of the SAC: Answering Defendants do not have
10 sufficient knowledge, or information or belief, to enable Defendants to answer the
11 allegations contained within this paragraph, as stated, and on those grounds deny
12 generally and specifically each and every allegation contained therein – and
13 Defendants deny all liability and/or wrongdoing.

14 33. Answering Paragraph 33 of the SAC: Answering Defendants do not have
15 sufficient knowledge, or information or belief, to enable Defendants to answer the
16 allegations contained within this paragraph, as stated, and on those grounds deny
17 generally and specifically each and every allegation contained therein – and
18 Defendants deny all liability and/or wrongdoing.

19 34. Answering Paragraph 34 of the SAC: Answering Defendants do not have
20 sufficient knowledge, or information or belief, to enable Defendants to answer the
21 allegations contained within this paragraph, as stated, and on those grounds deny
22 generally and specifically each and every allegation contained therein – and
23 Defendants deny all liability and/or wrongdoing.

24 35. Answering Paragraph 35 of the SAC: Answering Defendants do not have
25 sufficient knowledge, or information or belief, to enable Defendants to answer the
26 allegations contained within this paragraph, as stated, and on those grounds deny
27 generally and specifically each and every allegation contained therein – and
28 Defendants deny all liability and/or wrongdoing.

1 36. Answering Paragraph 36 of the SAC: Answering Defendants do not have
2 sufficient knowledge, or information or belief, to enable Defendants to answer the
3 allegations contained within this paragraph, as stated, and on those grounds deny
4 generally and specifically each and every allegation contained therein – and
5 Defendants deny all liability and/or wrongdoing.

6 37. Answering Paragraph 37 of the SAC: Answering Defendants repeat,
7 reiterate, and re-allege all of the admissions and denials contained in the foregoing
8 Answer which are set forth to each and every allegation contained in paragraphs 1
9 through 36, inclusive, of the SAC.

10 38. Answering Paragraph 38 of the SAC: Answering Defendants do not have
11 sufficient knowledge, or information or belief, to enable Defendants to answer the
12 allegations contained within this paragraph, as stated, and on those grounds deny
13 generally and specifically each and every allegation contained therein – and
14 Defendants deny all liability and/or wrongdoing.

15 39. Answering Paragraph 39 of the SAC: Answering Defendants do not have
16 sufficient knowledge, or information or belief, to enable Defendants to answer the
17 allegations contained within this paragraph, as stated, and on those grounds deny
18 generally and specifically each and every allegation contained therein – and
19 Defendants deny all liability and/or wrongdoing.

20 40. Answering Paragraph 40 of the SAC: Answering Defendants do not have
21 sufficient knowledge, or information or belief, to enable Defendants to answer the
22 allegations contained within this paragraph, as stated, and on those grounds deny
23 generally and specifically each and every allegation contained therein – and
24 Defendants deny all liability and/or wrongdoing.

25 41. Answering Paragraph 41 of the SAC: Answering Defendants do not have
26 sufficient knowledge, or information or belief, to enable Defendants to answer the
27 allegations contained within this paragraph, as stated, and on those grounds deny
28 generally and specifically each and every allegation contained therein – and

1 Defendants deny all liability and/or wrongdoing.

2 42. Answering Paragraph 42 of the SAC: Answering Defendants do not have
3 sufficient knowledge, or information or belief, to enable Defendants to answer the
4 allegations contained within this paragraph, as stated, and on those grounds deny
5 generally and specifically each and every allegation contained therein – and
6 Defendants deny all liability and/or wrongdoing.

7 43. Answering Paragraph 43 of the SAC: Answering Defendants do not have
8 sufficient knowledge, or information or belief, to enable Defendants to answer the
9 allegations contained within this paragraph, as stated, and on those grounds deny
10 generally and specifically each and every allegation contained therein – and
11 Defendants deny all liability and/or wrongdoing.

12 44. Answering Paragraph 44 of the SAC: Answering Defendants do not have
13 sufficient knowledge, or information or belief, to enable Defendants to answer the
14 allegations contained within this paragraph, as stated, and on those grounds deny
15 generally and specifically each and every allegation contained therein – and
16 Defendants deny all liability and/or wrongdoing.

17 45. Answering Paragraph 45 of the SAC: Answering Defendants do not have
18 sufficient knowledge, or information or belief, to enable Defendants to answer the
19 allegations contained within this paragraph, as stated, and on those grounds deny
20 generally and specifically each and every allegation contained therein – and
21 Defendants deny all liability and/or wrongdoing.

22 46. Answering Paragraph 46 of the SAC: Answering Defendants do not have
23 sufficient knowledge, or information or belief, to enable Defendants to answer the
24 allegations contained within this paragraph, as stated, and on those grounds deny
25 generally and specifically each and every allegation contained therein – and
26 Defendants deny all liability and/or wrongdoing.

27 47. Answering Paragraph 47 of the SAC: Answering Defendants do not have
28 sufficient knowledge, or information or belief, to enable Defendants to answer the

1 allegations contained within this paragraph, as stated, and on those grounds deny
2 generally and specifically each and every allegation contained therein – and
3 Defendants deny all liability and/or wrongdoing.

4 48. Answering Paragraph 48 of the SAC: Answering Defendants do not have
5 sufficient knowledge, or information or belief, to enable Defendants to answer the
6 allegations contained within this paragraph, as stated, and on those grounds deny
7 generally and specifically each and every allegation contained therein – and
8 Defendants deny all liability and/or wrongdoing.

9 49. Answering Paragraph 49 of the SAC: Answering Defendants do not have
10 sufficient knowledge, or information or belief, to enable Defendants to answer the
11 allegations contained within this paragraph, as stated, and on those grounds deny
12 generally and specifically each and every allegation contained therein – and
13 Defendants deny all liability and/or wrongdoing.

14 50. Answering Paragraph 50 of the SAC: Answering Defendants repeat,
15 reiterate, and re-allege all of the admissions and denials contained in the foregoing
16 Answer which are set forth to each and every allegation contained in paragraphs 1
17 through 49, inclusive, of the SAC.

18 51. Answering Paragraph 51 of the SAC: Answering Defendants do not have
19 sufficient knowledge, or information or belief, to enable Defendants to answer the
20 allegations contained within this paragraph, as stated, and on those grounds deny
21 generally and specifically each and every allegation contained therein – and
22 Defendants deny all liability and/or wrongdoing.

23 52. Answering Paragraph 52 of the SAC: Answering Defendants do not have
24 sufficient knowledge, or information or belief, to enable Defendants to answer the
25 allegations contained within this paragraph, as stated, and on those grounds deny
26 generally and specifically each and every allegation contained therein – and
27 Defendants deny all liability and/or wrongdoing.

28 53. Answering Paragraph 53 of the SAC: Answering Defendants do not have

1 sufficient knowledge, or information or belief, to enable Defendants to answer the
2 allegations contained within this paragraph, as stated, and on those grounds deny
3 generally and specifically each and every allegation contained therein – and
4 Defendants deny all liability and/or wrongdoing.

5 54. Answering Paragraph 54 of the SAC: Answering Defendants do not have
6 sufficient knowledge, or information or belief, to enable Defendants to answer the
7 allegations contained within this paragraph, as stated, and on those grounds deny
8 generally and specifically each and every allegation contained therein – and
9 Defendants deny all liability and/or wrongdoing.

10 55. Answering Paragraph 55 of the SAC: Answering Defendants do not have
11 sufficient knowledge, or information or belief, to enable Defendants to answer the
12 allegations contained within this paragraph, as stated, and on those grounds deny
13 generally and specifically each and every allegation contained therein – and
14 Defendants deny all liability and/or wrongdoing.

15 56. Answering Paragraph 56 of the SAC: Answering Defendants do not have
16 sufficient knowledge, or information or belief, to enable Defendants to answer the
17 allegations contained within this paragraph, as stated, and on those grounds deny
18 generally and specifically each and every allegation contained therein – and
19 Defendants deny all liability and/or wrongdoing.

20 57. Answering Paragraph 57 of the SAC: Answering Defendants do not have
21 sufficient knowledge, or information or belief, to enable Defendants to answer the
22 allegations contained within this paragraph, as stated, and on those grounds deny
23 generally and specifically each and every allegation contained therein – and
24 Defendants deny all liability and/or wrongdoing.

25 58. Answering Paragraph 58 of the SAC: Answering Defendants do not have
26 sufficient knowledge, or information or belief, to enable Defendants to answer the
27 allegations contained within this paragraph, as stated, and on those grounds deny
28 generally and specifically each and every allegation contained therein – and

Defendants deny all liability and/or wrongdoing.

59. Answering Paragraph 59 of the SAC: Answering Defendants do not have sufficient knowledge, or information or belief, to enable Defendants to answer the allegations contained within this paragraph, as stated, and on those grounds deny generally and specifically each and every allegation contained therein – and Defendants deny all liability and/or wrongdoing.

60. Answering Paragraph 60 of the SAC: Answering Defendants repeat, reiterate, and re-allege all of the admissions and denials contained in the foregoing Answer which are set forth to each and every allegation contained in paragraphs 1 through 59, inclusive, of the SAC.

61. Answering Paragraph 61 of the SAC: Answering Defendants do not have sufficient knowledge, or information or belief, to enable Defendants to answer the allegations contained within this paragraph, as stated, and on those grounds deny generally and specifically each and every allegation contained therein – and Defendants deny all liability and/or wrongdoing.

62. Answering Paragraph 62 of the SAC: Answering Defendants do not have sufficient knowledge, or information or belief, to enable Defendants to answer the allegations contained within this paragraph, as stated, and on those grounds deny generally and specifically each and every allegation contained therein – and Defendants deny all liability and/or wrongdoing.

63. Answering Paragraph 63 of the SAC including subsections (a) – (g): Answering Defendants do not have sufficient knowledge, or information or belief, to enable Defendants to answer the allegations contained within this paragraph, as stated, and on those grounds deny generally and specifically each and every allegation contained therein – and Defendants deny all liability and/or wrongdoing.

64. Answering Paragraph 64 of the SAC including subsections (a) – (f): Answering Defendants do not have sufficient knowledge, or information or belief, to enable Defendants to answer the allegations contained within this paragraph, as stated,

1 and on those grounds deny generally and specifically each and every allegation
2 contained therein – and Defendants deny all liability and/or wrongdoing.

3 65. Answering Paragraph 65 of the SAC: Answering Defendants do not have
4 sufficient knowledge, or information or belief, to enable Defendants to answer the
5 allegations contained within this paragraph, as stated, and on those grounds deny
6 generally and specifically each and every allegation contained therein – and
7 Defendants deny all liability and/or wrongdoing.

8 66. Answering Paragraph 66 of the SAC: Answering Defendants do not have
9 sufficient knowledge, or information or belief, to enable Defendants to answer the
10 allegations contained within this paragraph, as stated, and on those grounds deny
11 generally and specifically each and every allegation contained therein – and
12 Defendants deny all liability and/or wrongdoing.

13 67. Answering Paragraph 67 of the SAC: Answering Defendants do not have
14 sufficient knowledge, or information or belief, to enable Defendants to answer the
15 allegations contained within this paragraph, as stated, and on those grounds deny
16 generally and specifically each and every allegation contained therein – and
17 Defendants deny all liability and/or wrongdoing.

18 68. Answering Paragraph 68 of the SAC: Answering Defendants do not have
19 sufficient knowledge, or information or belief, to enable Defendants to answer the
20 allegations contained within this paragraph, as stated, and on those grounds deny
21 generally and specifically each and every allegation contained therein – and
22 Defendants deny all liability and/or wrongdoing.

23 69. Answering Paragraph 69 of the SAC: Answering Defendants do not have
24 sufficient knowledge, or information or belief, to enable Defendants to answer the
25 allegations contained within this paragraph, as stated, and on those grounds deny
26 generally and specifically each and every allegation contained therein – and
27 Defendants deny all liability and/or wrongdoing.

28 70. Answering Paragraph 70 of the SAC: Answering Defendants do not have

1 sufficient knowledge, or information or belief, to enable Defendants to answer the
2 allegations contained within this paragraph, as stated, and on those grounds deny
3 generally and specifically each and every allegation contained therein – and
4 Defendants deny all liability and/or wrongdoing.

5 71. Answering Paragraph 71 of the SAC: Answering Defendants repeat,
6 reiterate, and re-allege all of the admissions and denials contained in the foregoing
7 Answer which are set forth to each and every allegation contained in paragraphs 1
8 through 70, inclusive, of the SAC.

9 72. Answering Paragraph 72 of the SAC: Answering Defendants do not have
10 sufficient knowledge, or information or belief, to enable Defendants to answer the
11 allegations contained within this paragraph, as stated, and on those grounds deny
12 generally and specifically each and every allegation contained therein – and
13 Defendants deny all liability and/or wrongdoing.

14 73. Answering Paragraph 73 of the SAC: Answering Defendants do not have
15 sufficient knowledge, or information or belief, to enable Defendants to answer the
16 allegations contained within this paragraph, as stated, and on those grounds deny
17 generally and specifically each and every allegation contained therein – and
18 Defendants deny all liability and/or wrongdoing.

19 74. Answering Paragraph 74 of the SAC: Answering Defendants do not have
20 sufficient knowledge, or information or belief, to enable Defendants to answer the
21 allegations contained within this paragraph, as stated, and on those grounds deny
22 generally and specifically each and every allegation contained therein – and
23 Defendants deny all liability and/or wrongdoing.

24 75. Answering Paragraph 75 of the SAC: Answering Defendants do not have
25 sufficient knowledge, or information or belief, to enable Defendants to answer the
26 allegations contained within this paragraph, as stated, and on those grounds deny
27 generally and specifically each and every allegation contained therein – and
28 Defendants deny all liability and/or wrongdoing.

1 76. Answering Paragraph 76 of the SAC: Answering Defendants do not have
2 sufficient knowledge, or information or belief, to enable Defendants to answer the
3 allegations contained within this paragraph, as stated, and on those grounds deny
4 generally and specifically each and every allegation contained therein – and
5 Defendants deny all liability and/or wrongdoing.

6 77. Answering Paragraph 77 of the SAC: Answering Defendants do not have
7 sufficient knowledge, or information or belief, to enable Defendants to answer the
8 allegations contained within this paragraph, as stated, and on those grounds deny
9 generally and specifically each and every allegation contained therein – and
10 Defendants deny all liability and/or wrongdoing.

11 78. Answering Paragraph 78 of the SAC: Answering Defendants do not have
12 sufficient knowledge, or information or belief, to enable Defendants to answer the
13 allegations contained within this paragraph, as stated, and on those grounds deny
14 generally and specifically each and every allegation contained therein – and
15 Defendants deny all liability and/or wrongdoing.

16 79. Answering Paragraph 79 of the SAC: Answering Defendants do not have
17 sufficient knowledge, or information or belief, to enable Defendants to answer the
18 allegations contained within this paragraph, as stated, and on those grounds deny
19 generally and specifically each and every allegation contained therein – and
20 Defendants deny all liability and/or wrongdoing.

21 80. Answering Paragraph 80 of the SAC: Answering Defendants do not have
22 sufficient knowledge, or information or belief, to enable Defendants to answer the
23 allegations contained within this paragraph, as stated, and on those grounds deny
24 generally and specifically each and every allegation contained therein – and
25 Defendants deny all liability and/or wrongdoing.

26 81. Answering Paragraph 81 of the SAC: Answering Defendants repeat,
27 reiterate, and re-allege all of the admissions and denials contained in the foregoing
28 Answer which are set forth to each and every allegation contained in paragraphs 1

1 through 80, inclusive, of the SAC.

2 82. Answering Paragraph 82 of the SAC: Answering Defendant City of
3 Fresno does not have sufficient knowledge, or information or belief, to enable
4 Defendant to answer the allegations contained within this paragraph, as stated, and on
5 those grounds denies generally and specifically each and every allegation contained
6 therein – and Defendant denies all liability and/or wrongdoing.

7 83. Answering Paragraph 83 of the SAC: Answering Defendant City of
8 Fresno does not have sufficient knowledge, or information or belief, to enable
9 Defendant to answer the allegations contained within this paragraph, as stated, and on
10 those grounds denies generally and specifically each and every allegation contained
11 therein – and Defendant denies all liability and/or wrongdoing.

12 84. Answering Paragraph 84 of the SAC: Answering Defendant City of
13 Fresno does not have sufficient knowledge, or information or belief, to enable
14 Defendant to answer the allegations contained within this paragraph, as stated, and on
15 those grounds denies generally and specifically each and every allegation contained
16 therein – and Defendant denies all liability and/or wrongdoing.

17 85. Answering Paragraph 85 of the SAC: Answering Defendant City of
18 Fresno does not have sufficient knowledge, or information or belief, to enable
19 Defendant to answer the allegations contained within this paragraph, as stated, and on
20 those grounds denies generally and specifically each and every allegation contained
21 therein – and Defendant denies all liability and/or wrongdoing.

22 86. Answering Paragraph 86 of the SAC: Answering Defendant City of
23 Fresno does not have sufficient knowledge, or information or belief, to enable
24 Defendant to answer the allegations contained within this paragraph, as stated, and on
25 those grounds denies generally and specifically each and every allegation contained
26 therein – and Defendant denies all liability and/or wrongdoing.

27 87. Answering Paragraph 87 of the SAC: Answering Defendant City of
28 Fresno does not have sufficient knowledge, or information or belief, to enable

1 Defendant to answer the allegations contained within this paragraph, as stated, and on
2 those grounds denies generally and specifically each and every allegation contained
3 therein – and Defendant denies all liability and/or wrongdoing.

4 88. Answering Paragraph 88 of the SAC: Answering Defendant City of
5 Fresno does not have sufficient knowledge, or information or belief, to enable
6 Defendant to answer the allegations contained within this paragraph, as stated, and on
7 those grounds denies generally and specifically each and every allegation contained
8 therein – and Defendant denies all liability and/or wrongdoing.

9 89. Answering Paragraph 89 of the SAC: Answering Defendant City of
10 Fresno does not have sufficient knowledge, or information or belief, to enable
11 Defendant to answer the allegations contained within this paragraph, as stated, and on
12 those grounds denies generally and specifically each and every allegation contained
13 therein – and Defendant denies all liability and/or wrongdoing.

14 90. Answering Paragraph 90 of the SAC: Answering Defendants repeat,
15 reiterate, and re-allege all of the admissions and denials contained in the foregoing
16 Answer which are set forth to each and every allegation contained in paragraphs 1
17 through 89, inclusive, of the SAC.

18 91. Answering Paragraph 91 of the SAC: Answering Defendant City of
19 Fresno does not have sufficient knowledge, or information or belief, to enable
20 Defendant to answer the allegations contained within this paragraph, as stated, and on
21 those grounds denies generally and specifically each and every allegation contained
22 therein – and Defendant denies all liability and/or wrongdoing.

23 92. Answering Paragraph 92 of the SAC: Answering Defendant City of
24 Fresno does not have sufficient knowledge, or information or belief, to enable
25 Defendant to answer the allegations contained within this paragraph, as stated, and on
26 those grounds denies generally and specifically each and every allegation contained
27 therein – and Defendant denies all liability and/or wrongdoing.

28 93. Answering Paragraph 93 of the SAC: Answering Defendants repeat,

1 reiterate, and re-allege all of the admissions and denials contained in the foregoing
2 Answer which are set forth to each and every allegation contained in paragraphs 1
3 through 92, inclusive, of the SAC.

4 94. Answering Paragraph 94 of the SAC: Answering Defendant City of
5 Fresno does not have sufficient knowledge, or information or belief, to enable
6 Defendant to answer the allegations contained within this paragraph, as stated, and on
7 those grounds denies generally and specifically each and every allegation contained
8 therein – and Defendant denies all liability and/or wrongdoing.

9 95. Answering Paragraph 95 of the SAC: Answering Defendant City of
10 Fresno does not have sufficient knowledge, or information or belief, to enable
11 Defendant to answer the allegations contained within this paragraph, as stated, and on
12 those grounds denies generally and specifically each and every allegation contained
13 therein – and Defendant denies all liability and/or wrongdoing.

14 96. Answering Paragraph 96 of the SAC: Answering Defendant City of
15 Fresno does not have sufficient knowledge, or information or belief, to enable
16 Defendant to answer the allegations contained within this paragraph, as stated, and on
17 those grounds denies generally and specifically each and every allegation contained
18 therein – and Defendant denies all liability and/or wrongdoing.

19 97. Answering Paragraph 97 of the SAC: Answering Defendant City of
20 Fresno does not have sufficient knowledge, or information or belief, to enable
21 Defendant to answer the allegations contained within this paragraph, as stated, and on
22 those grounds denies generally and specifically each and every allegation contained
23 therein – and Defendant denies all liability and/or wrongdoing.

24 98. Answering Paragraph 98 of the SAC: Answering Defendant City of
25 Fresno does not have sufficient knowledge, or information or belief, to enable
26 Defendant to answer the allegations contained within this paragraph, as stated, and on
27 those grounds denies generally and specifically each and every allegation contained
28 therein – and Defendant denies all liability and/or wrongdoing.

1 99. Answering Paragraph 99 of the SAC: Answering Defendants repeat,
2 reiterate, and re-allege all of the admissions and denials contained in the foregoing
3 Answer which are set forth to each and every allegation contained in paragraphs 1
4 through 98, inclusive, of the SAC.

5 100. Answering Paragraph 100 of the SAC: Answering Defendant City of
6 Fresno does not have sufficient knowledge, or information or belief, to enable
7 Defendant to answer the allegations contained within this paragraph, as stated, and on
8 those grounds denies generally and specifically each and every allegation contained
9 therein – and Defendant denies all liability and/or wrongdoing.

10 101. Answering Paragraph 101 of the SAC: Answering Defendant City of
11 Fresno does not have sufficient knowledge, or information or belief, to enable
12 Defendant to answer the allegations contained within this paragraph, as stated, and on
13 those grounds denies generally and specifically each and every allegation contained
14 therein – and Defendant denies all liability and/or wrongdoing.

15 102. Answering Paragraph 102 of the SAC: Answering Defendant City of
16 Fresno does not have sufficient knowledge, or information or belief, to enable
17 Defendant to answer the allegations contained within this paragraph, as stated, and on
18 those grounds denies generally and specifically each and every allegation contained
19 therein – and Defendant denies all liability and/or wrongdoing.

20 103. Answering Paragraph 103 of the SAC: Answering Defendant City of
21 Fresno does not have sufficient knowledge, or information or belief, to enable
22 Defendant to answer the allegations contained within this paragraph, as stated, and on
23 those grounds denies generally and specifically each and every allegation contained
24 therein – and Defendant denies all liability and/or wrongdoing.

25 104. Answering Paragraph 104 of the SAC: Answering Defendants do not
26 have sufficient knowledge, or information or belief, to enable Defendants to answer
27 the allegations contained within this paragraph, as stated, and on those grounds deny
28 generally and specifically each and every allegation contained therein – and

1 Defendants deny all liability and/or wrongdoing.

2 105. Answering Paragraph 105 of the SAC: Answering Defendants do not
3 have sufficient knowledge, or information or belief, to enable Defendants to answer
4 the allegations contained within this paragraph, as stated, and on those grounds deny
5 generally and specifically each and every allegation contained therein – and
6 Defendants deny all liability and/or wrongdoing.

7 106. Answering Paragraph 106 of the SAC: Answering Defendants do not
8 have sufficient knowledge, or information or belief, to enable Defendants to answer
9 the allegations contained within this paragraph, as stated, and on those grounds deny
10 generally and specifically each and every allegation contained therein – and
11 Defendants deny all liability and/or wrongdoing.

12 107. Answering Paragraph 107 of the SAC: Answering Defendants do not
13 have sufficient knowledge, or information or belief, to enable Defendants to answer
14 the allegations contained within this paragraph, as stated, and on those grounds deny
15 generally and specifically each and every allegation contained therein – and
16 Defendants deny all liability and/or wrongdoing.

17 108. Answering Paragraph 108 of the SAC: Answering Defendant City of
18 Fresno does not have sufficient knowledge, or information or belief, to enable
19 Defendant to answer the allegations contained within this paragraph, as stated, and on
20 those grounds denies generally and specifically each and every allegation contained
21 therein – and Defendant denies all liability and/or wrongdoing.

22 109. Answering Paragraph 109 of the SAC: Answering Defendants repeat,
23 reiterate, and re-allege all of the admissions and denials contained in the foregoing
24 Answer which are set forth to each and every allegation contained in paragraphs 1
25 through 108, inclusive, of the SAC.

26 110. Answering Paragraph 110 of the SAC: Answering Defendants do not
27 have sufficient knowledge, or information or belief, to enable Defendants to answer
28 the allegations contained within this paragraph, as stated, and on those grounds deny

1 generally and specifically each and every allegation contained therein – and
2 Defendants deny all liability and/or wrongdoing.

3 111. Answering Paragraph 111 of the SAC: Answering Defendants do not
4 have sufficient knowledge, or information or belief, to enable Defendants to answer
5 the allegations contained within this paragraph, as stated, and on those grounds deny
6 generally and specifically each and every allegation contained therein – and
7 Defendants deny all liability and/or wrongdoing.

8 112. Answering Paragraph 112 of the SAC: Answering Defendants do not
9 have sufficient knowledge, or information or belief, to enable Defendants to answer
10 the allegations contained within this paragraph, as stated, and on those grounds deny
11 generally and specifically each and every allegation contained therein – and
12 Defendants deny all liability and/or wrongdoing.

13 113. Answering Paragraph 113 of the SAC: Answering Defendants do not
14 have sufficient knowledge, or information or belief, to enable Defendants to answer
15 the allegations contained within this paragraph, as stated, and on those grounds deny
16 generally and specifically each and every allegation contained therein – and
17 Defendants deny all liability and/or wrongdoing.

18 114. Answering plaintiffs' Prayer For Relief, including subsections (1)
19 through (9), Defendants deny all liability to plaintiffs, including, but not limited to,
20 all liability for any and all damages, including general damages, special damages,
21 funeral and burial expenses, punitive and exemplary damages, statutory damages,
22 attorneys' fees, costs of suit, prejudgment interest, treble damages, and/or for any
23 relief of any kind from Defendants to plaintiffs.

24 115. To the extent plaintiffs assert any other claims or contentions not
25 specifically addressed herein above, Defendants generally and specifically deny each
26 and every remaining allegation and/or claim – and Defendants deny all liability and/or
27 wrongdoing.
28

AFFIRMATIVE DEFENSES

1. As separate and affirmative defenses, Defendants allege as follows:

FIRST AFFIRMATIVE DEFENSE

(Failure to State a Claim)

2. Plaintiffs' Complaint, and each alleged cause of action in it, fails to state a claim upon which relief can be granted.

3. Plaintiffs' Complaint also fails to state a claim against any Defendant in this action.

SECOND AFFIRMATIVE DEFENSE

(Tort Claims Act Violation)

4. This action is barred by plaintiffs' failure to comply with the government tort claims presentation requirements, California Government Code § 900, *et seq.*, including but not limited to §§ 900, 900.4, 901, 905, 905.2, 910, 911, 911.2, 911.4, 945.4, 945.6, 946.6, 950.2, and 950.6, to the extent applicable.

5. The Complaint is barred based on plaintiffs' failure to exhaust administrative remedies prior to filing this lawsuit.

6. Plaintiffs' recovery is barred because the causes of action stated in the Complaint do not correspond with the legal claims asserted in plaintiffs' written claim. The Complaint thereby alleges legal bases for recovery which are not fairly reflected in the written claim.

THIRD AFFIRMATIVE DEFENSE

(Waiver, Estoppel, Unclean Hands)

7. Defendants allege that plaintiffs' actions are barred by reason of conduct, actions and inactions of plaintiffs which amount to and constitute a waiver of any right plaintiff(s) may or might have had in reference to the matters and things alleged in the Complaint, or that otherwise estop plaintiffs from recovery in this action, including but not limited to the doctrine of unclean hands.

FOURTH AFFIRMATIVE DEFENSE

(Failure to Mitigate Damages)

8. Plaintiffs' claims are barred or limited to the extent plaintiffs failed to mitigate plaintiffs' injuries or damages, if there were any. Plaintiffs have failed to mitigate the damages, if any, which plaintiff(s) has/have sustained, and to exercise reasonable care to avoid the consequences of harms, if any, in that, among other things, plaintiffs have failed to use reasonable diligence in caring for any injuries, failed to use reasonable means to prevent aggravation of any injuries and failed to take reasonable precautions to reduce any injuries and damages.

FIFTH AFFIRMATIVE DEFENSE

(Contributory and/or Comparative Liability)

9. Plaintiffs' claims are barred or limited by plaintiff's contributory/comparative negligence or other conduct, acts, or omissions, and to the extent plaintiff suffered any injury or damages, it was the result of plaintiff's own negligent or deliberate actions or omissions.

10. Plaintiffs' recovery is barred because any injury or damage suffered by plaintiff was caused solely by reason of the plaintiff's wrongful acts and conduct and the willful resistance to a peace officer in the discharge their duties. The conduct set forth in the Complaint, if and to the extent it occurred, was privileged and justified and done with a good faith belief that it was correct and no action may be taken against the answering Defendants on account of such conduct.

SIXTH AFFIRMATIVE DEFENSE

(Public Entity/Employee Immunity for Others' Torts)

11. Plaintiffs' recovery is barred because public entities and employees are immune from liability for any injury caused by the act or omission of another person. Gov. Code §§ 815 *et seq.*, 820.2 *et seq.*

12. The answering Defendants are informed and believe and thereon allege that if plaintiffs sustained any injury or damages, such injury or damages were solely

1 caused or contributed to by the wrongful conduct of other defendants and/or entities
2 or persons other than the answering Defendants. To the extent that plaintiffs' damages
3 were so caused, any recovery by plaintiffs as against the answering Defendants should
4 be subject to proportionately comparative equitable indemnity/contribution from such
5 third parties.

6 **SEVENTH AFFIRMATIVE DEFENSE**

7 **(Public Entity/Employee Immunity for Discretionary Acts)**

8 13. There is no liability for any injury or damages, if any there were,
9 resulting from an exercise of discretion vested in a public employee, whether or not
10 such discretion be abused. Gov. Code § 815.2, 820.2, 820.4, 820.8, 820 *et seq.*

11 14. Plaintiffs' recovery is barred because public entities and employees are
12 immune from liability for discharging their mandatory duties with reasonable
13 diligence.

14 15. A public employee may not be held liable for injuries or damages, if any,
15 caused by failure to adopt or by adoption of an enactment or by failure to enforce an
16 enactment and/or law, for an injury caused by his issuance, denial, suspension or
17 revocation or by his failure or refusal to issue, deny, suspend or revoke, any permit,
18 license, certificate, approval, order, or similar authorization, where he is authorized
19 by enactment to determine whether or not such authorization should be issued, denied,
20 suspended or revoked, pursuant to Government Code §§ 818.2, 818.4, 818.8, 821 and
21 821.2. Based thereon, the answering defendants are immune from liability for any
22 injuries claimed by plaintiffs, herein.

23 16. Defendant(s) is/are immune for any detriment resulting from any of its
24 actions or omissions at the time of the incident of which plaintiffs complain pursuant
25 to Government Code § 810 *et seq.*, 815 *et seq.*, 820 *et seq.*, and 845 *et seq.*, including,
26 but not limited to, §§ 810, 810.2, 810.4, 810.6, 810.8, 811, 811.2, 811.4, 811.6, 811.8,
27 820.6, 820.8, 821, 821.2, 821.4, 821.6, 821.8, 822.2, 830.5, 830.6, 835.4, 844.6, and
28 Government Code §§ 854, *et seq.*, including, but not limited to, §§ 845.6, 854.6,

1 854.8(a)(2), and §§ 855.4, 855.6, 855.8 and 856.4.

2 **EIGHTH AFFIRMATIVE DEFENSE**

3 **(Public Entity Immunity)**

4 17. To the extent that the Complaint attempts to predicate liability upon any
5 public entity defendant or any employee thereof for purported negligence in retention,
6 hiring, employment, training, or supervision of any public employee, such liability is
7 barred by Government Code sections 815.2 and 820.2 and *Herndon v. County of*
8 *Marin* (1972) 25 Cal. App. 3d 933, 935, 936, *rev'd on other grounds by Sullivan v.*
9 *County of Los Angeles* (1974) 12 Cal.3d 710; and by the lack of any duty running to
10 plaintiffs; by the fact that any such purported act or omission is governed exclusively
11 by statute and is outside the purview of any public employees' authority; and by the
12 failure of any such acts or omissions to be the proximate or legal cause of any injury
13 alleged in the Complaint. *See de Villers v. County of San Diego*, 156 Cal.App.4th
14 238, 251-253, 255-256 (2007).

15 18. Defendants may not be held liable on a *respondeat superior* theory for
16 any negligent or wrongful act or omission on the part of any subordinate. Cal.
17 Government Code §§ 844.6, 845.6; Cal. Civil Code § 2351; *Malloy v. Fong* (1951)
18 37 Cal.2d 356, 378-379; *Monell v. Department of Social Services of the City of New*
19 *York* (1978) 436 U.S. 658; *Larez v. City of Los Angeles* (9th Cir. 1991) 946 F.2d 630,
20 645-646; *cf. City of Canton v. Harris*, 489 U.S. 378, 388-389 (1989); *City of Los*
21 *Angeles v. Heller*, 475 U.S. 796 (1986).

22 **NINTH AFFIRMATIVE DEFENSE**

23 **(Qualified Immunity & Good Faith Immunity)**

24 19. Defendant City and its agents or officers at all times relevant to this
25 action acted reasonably and prudently under the circumstances. Defendants therefore
26 assert the individual defendant's Qualified Immunity from liability to the fullest extent
27 applicable.

28 20. Defendants are immune from liability under the Federal Civil Rights Act

1 because they acted in good faith with an honest and reasonable belief that their actions
2 were necessary and appropriate. Defendants are immune from liability under the
3 Federal Civil Rights Act because a reasonable police officer could believe that his
4 actions and conduct were objectively reasonable under the totality of the
5 circumstances. Defendants are immune from liability under the Federal Civil Rights
6 Act because their conduct did not violate plaintiff's clearly established constitutional
7 or statutory rights of which a reasonable officer would have known.

8 21. At all relevant times, Defendants acted within the scope of discretion,
9 with due care, and good faith fulfillment of responsibilities pursuant to applicable
10 statutes, rules, and regulations, within the bounds of reason, and with the good faith
11 belief that their actions comported with all applicable federal and state laws. *Harlow*
12 *v. Fitzgerald* (1982) 457 U.S. 800; Cal Gov. Code §§ 815.2 and 820.2.

13 **TENTH AFFIRMATIVE DEFENSE**

14 **(Assumption of Risk)**

15 22. At the time and place referred to in the Complaint, and before such event,
16 plaintiff knew, appreciated, and understood each and every risk involved in placing
17 himself in the position which plaintiff then assumed, and willingly, knowingly and
18 voluntarily assumed each of such risks, including, but not limited to, the risk of
19 suffering personal bodily injury and/or lawful deprivation of right(s).

20 **ELEVENTH AFFIRMATIVE DEFENSE**

21 23. Defendants contend that they cannot fully anticipate all affirmative
22 defenses that may be applicable to this action based on the conclusory terms used in
23 plaintiffs' Complaint. Accordingly, Defendants expressly reserve the right to assert
24 additional affirmative defenses if and to the extent that such affirmative defenses
25 become applicable.

JURY DEMAND

24. Defendants demand a trial by jury as to each issue triable by jury.

PRAYER FOR RELIEF

WHEREFORE, the answering Defendants pray as follows:

1. That plaintiffs take nothing by this action;
2. That Defendants be awarded attorneys' fees, costs of suit and costs of proof, and such other relief as the Court deems just

DATED: March 10, 2025

**MANNING & KASS
ELLROD, RAMIREZ, TRESTER LLP**

By: /s/ Mildred K' O'Linn
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PACO BALDERRAMA